IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

RSA NO. 4398 of 2003.
DECIDED ON: 13.12.2007.

Suraj Bhan.

.....Appellant.

Versus

Bimla and others.

.....Respondents.

Present: Mr. P.S.Chauhan, Advocate,
for the appellant.

Mr. Vikram Singh, Advocate,
for the respondents.

RAJESH BINDAL,J.

The plaintiff is in second appeal before this Court against concurrent finding of fact by the Courts below, whereby the suit for permanent injunction filed by him for restraining the defendants from interfering in his peaceful possession of the property in dispute, was dismissed.

The claim set up in the plaint filed by the appellant/plaintiff was that he was owner in possession of the residential house as mentioned in the plaint which was surrounded by the boundary wall. The respondents/defendants being influential persons of the village intended to take illegal possession of the suit property which compelled the appellant/plaintiff to file the suit.

The suit was contested by the respondents/defendants. It was pleaded that the appellant/plaintiff was not owner in possession of the suit land and he had merely tried to encroach upon the land owned by respondents/defendants. As regards the ownership of the land in question, none of the parties adduced any documentary evidence and it was merely oral evidence. Even in his oral

evidence, the plaintiff appearing as PW-1 did not utter a single word to state that he was owner of the property. All what was stated by him was that he was in possession of the property for the last 20-25 years. The appellant/plaintiff sought to rely upon resolution of the Panchayat resolving the dispute between the parties and holding that the appellant/plaintiff was in possession of the suit land however, the same was rightly not relied upon by the Courts below for the reason that there was no record of the resolution in the register of the panchayat. It was found by the Courts below that in fact the plaintiff was in possession of a small room on the western side abutting to the property of the respondents/defendants and was in process to grab the land lying open adjoining his house. In fact the plaintiff had constructed four walls of his property but by breaking the wall towards northern side of defendants property, an effort was made to include the open land in his property. As regards possession of the property also it was admitted by the plaintiff himself that the defendants had started tethering their cattles, and keeping cow dung cakes in the suit property which clearly meant that the appellant/plaintiff was not in possession of the property. With this material on record both the Courts below opined that the appellant/plaintiff was not entitled to the relief prayed for by him in the suit and accordingly dismissed the suit. Even before this Court, learned counsel for the appellant had not been able to point out as to in what manner he was claiming ownership or possession of the property and the injunction to protect the same was being sought by him. When he could neither prove his title to the property nor prove possession thereon.

The findings recorded by the learned courts below are plain and simple findings of fact which cannot be held to be perverse .

No substantial question of law arises in the present appeal, accordingly, the same is dismissed.

December 13, 2007. (Rajesh Bindal)
Judge

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